

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FILED  
CO MAY 22 PM 3:55

Anthony L. Pope

Plaintiff,

v.

D.K. SISTO

Defendant.

CASE NO.

PRISONER'S  
IN FORMA PAUPERIS  
APPLICATION

008-1502 CRB  
(PF)

I, Anthony L. Pope, declare under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes \_\_\_\_\_ No ✓

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: \_\_\_\_\_ Net: \_\_\_\_\_

Employer: \_\_\_\_\_

If the answer is "no," state the date of last employment and the amount of the gross and net salary and wages per month which you received. (If you are imprisoned, specify the last place of employment prior to imprisonment.)

Constructors  
Christies Welding Inc. Seaport Ave, Richmond, CA.  
2002 last worked - \$1,900 gross monthly

2. Have you received, within the past twelve (12) months, any money from any of the following sources:

- |    |  |           |             |
|----|--|-----------|-------------|
| a. | Business, Profession or self employment  | Yes _____ | No <u>✓</u> |
| b. | Income from stocks, bonds, or royalties?                                       | Yes _____ | No <u>✓</u> |
| c. | Rent payments?   | Yes _____ | No <u>✓</u> |
| d. | Pensions, annuities, or life insurance payments?                               | Yes _____ | No <u>✓</u> |
| e. | Federal or State welfare payments, Social Security or other government source? | Yes _____ | No <u>✓</u> |

If the answer is "yes" to any of the above, describe each source of money and state the amount received from each.

3. Are you married? Yes ✓ No \_\_\_\_\_

Spouse's Full Name: Veronica Renee Washington

Spouse's Place of Employment: None

Spouse's Monthly Salary, Wages or Income:

Gross \$ 600.00 Net \$ 600.00

4. a. List amount you contribute to your spouse's support:

\$ None

b. List the persons other than your spouse who are dependent upon you for support and indicate how much you contribute toward their support:

None

5. Do you own or are you buying a home? Yes \_\_\_\_\_ No ✓

Estimated Market Value: \$ \_\_\_\_\_ Amount of Mortgage: \$ \_\_\_\_\_

6. Do you own an automobile? Yes \_\_\_\_\_ No ✓

Make \_\_\_\_\_ Year \_\_\_\_\_ Model \_\_\_\_\_

Is it financed? Yes \_\_\_\_\_ No \_\_\_\_\_ If so, Total due: \$ \_\_\_\_\_

Monthly Payment: \$ \_\_\_\_\_

7. Do you have a bank account? (If you are a prisoner, include funds in your prison account, and provide the certificate attached, signed by an officer of the prison.)

Yes \_\_\_\_\_ No ☒

Name(s) and address(es) of bank: \_\_\_\_\_

Present balance(s): \$ 0

Do you own any cash? Yes \_\_\_\_\_ No ☒ Amount: \$ -

Do you have any other assets? (If "yes," provide a description of each asset and its estimated market value.) Yes \_\_\_\_\_ No ☒

8. What are your monthly expenses?

Rent: \$ - Utilities: -

Food: \$ - Clothing: -

Charge Accounts:

<u>Name of Account</u>	<u>Monthly Payment</u>	<u>Total Owed On This Account</u>
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

9. Do you have any other debts? (List current obligations, indicating amounts and to whom they are payable.)

No

I consent to prison officials withdrawing from my trust account and paying to the court the initial partial filing fee and all installment payments required by the court.

I declare under the penalty of perjury that the foregoing is true and correct and understand that a false statement herein may result in the dismissal of my claims.

5-20-08

DATE

Anthony L. Pope

SIGNATURE OF APPLICANT

Case Number: \_\_\_\_\_

CERTIFICATE OF FUNDS

IN

PRISONER'S ACCOUNT

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of

Anthony L. Pope for the last six months at  
[prisoner name]

CSP - SOLANO where (x) he is confined.  
[name of institution]

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$\_\_\_\_\_ and the average balance in the prisoner's account each month for the most recent 6-month period was \$\_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Authorized officer of the institution

Case Number: \_\_\_\_\_

CERTIFICATE OF FUNDS

IN

PRISONER'S ACCOUNT

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of

Anthony L. Pope for the last six months at  
[prisoner name]

CSP-SOLANO where (s)he is confined.  
[name of institution]

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$\_\_\_\_\_ and the average balance in the prisoner's account each month for the most recent 6-month period was \$\_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Authorized officer of the institution

**FILED**

**APR X 1 2008**

**RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY L. POPE,

Petitioner,

vs.

D. K. SISTO, Warden,

Respondent(s).

No. C 08-1502 CRB (PR)

ORDER OF DISMISSAL

Anthony L. Pope, a prisoner at California State Prison, Solano, has filed a pro se petition for a writ of habeas corpus alleging defamation of character. Specifically, Pope alleges that the attorney general's office incorrectly referred to him as a child molester in a declaration filed in support of a request for an extension of time in a pending habeas case of his in this court. Pope seeks an order requiring the attorney general to file a new declaration and damages in the amount of \$50,000.

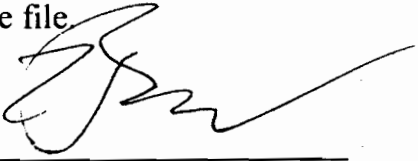
The petition for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights complaint under 42 U.S.C. § 1983. The Ninth Circuit has made clear that habeas jurisdiction is absent, and a § 1983 action proper, where,

1 as here, a successful challenge will not necessarily shorten the prisoner's  
2 sentence. See Ramirez v. Galaza, 334 F.3d 850, 859 (9th Cir. 2003).

3 The clerk shall enter judgment in accordance with this order, terminate all  
4 pending motions as moot and close the file.

5 SO ORDERED.

6 DATED: MAR 31 2008

  
7 CHARLES R. BREYER  
8 United States District Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY L. POPE,  
Plaintiff,

v.

D.K. SISTO et al,  
Defendant.

---

Case Number: CV08-01502 CRB

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 1, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Anthony LaShawn Pope J-18522  
CSP - Solano  
1-244-U  
P.O. Box 4000  
Vacaville, CA 95696-4000

Dated: April 1, 2008

Richard W. Wieking, Clerk



By: Tracy Lucero, Deputy Clerk



**FILED**

**APR X 1 2008**

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

**RICHARD W. WIEKING**  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY L. POPE,

No. CV-08-1502 CRB (PR)

Petitioner,

**JUDGMENT IN A CIVIL CASE**

v.

D. K. SISTO, Warden,

Respondent(s).

**( ) Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

**(X) Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

**IT IS SO ORDERED AND ADJUDGED** the petition for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights complaint under 42 U.S.C. § 1983.

Dated: April 1, 2008

Richard W. Wieking, Clerk

*Tracy Lucero*

By: Tracy Lucero  
Deputy Clerk

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY L. POPE,  
Plaintiff,

Case Number: CV08-01502 CRB  
**CERTIFICATE OF SERVICE**

v.

D.K. SISTO et al,  
Defendant.

---

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 1, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Anthony LaShawn Pope J-18522  
CSP - Solano  
1-244-U  
P.O. Box 4000  
Vacaville, CA 95696-4000

Dated: April 1, 2008

Richard W. Wieking, Clerk



By: Tracy Lucero, Deputy Clerk

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name: POPE ANTHONY L.  
(Last) (First) (Initial)

Prisoner Number J-18522

Institutional Address CSP-SOLANO, P.O. BOX 4000, Vacaville, CA 95696-  
4000

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY LASHAWN POPE

(Enter the full name of the  
plaintiff in this action)

Case No. \_\_\_\_\_

(To be provided by the clerk  
of court)

vs.

D.K. SISTO (Warden)

COMPLAINT UNDER THE CIVIL  
RIGHTS ACT, 42 U.S.C. § 1983

\_\_\_\_\_  
(Enter the full name of the  
defendant(s) in this action)

All questions on this complaint form must be answered in order  
for your action to proceed.

I. Exhaustion of Administrative Remedies

Note: You must exhaust your administrative remedies before  
your claim can go forward. The court will dismiss any  
unexhausted claims.

A. Place of present confinement CSP-Solano Prison

B. Is there a grievance procedure in this institution?  
YES (✓) NO ( )

C. Did you present the facts in your complaint for review  
through the grievance procedure? YES ( ) NO (✓)

1. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue a certain level of appeal, explain why.

1. Informal appeal \_\_\_\_\_

2. First formal level \_\_\_\_\_

3. Second formal level \_\_\_\_\_

4. Third formal level \_\_\_\_\_

E. Is the last level to which you appealed the highest level of appeal available to you? YES ( ) NO ( )

F. If you did not present your claim for review through the grievance procedure, explain why. My grievance is with the A.G.

There is no grievance procedure for A.G. except to file this WRIT

## II. Parties

Write your name and your present address. Do the same for additional plaintiffs, if any.

A. ANTHONY LASHAWN POPE J-18522  
CSP - SOLANO 1-244-U  
P.O. Box 4000  
Vacaville, CA. 95696-4000

Write the full name of each defendant, his or her official position, and his or her place of employment.

B. \_\_\_\_\_

### Statement of Facts

State here as briefly as possible the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

On 2-20-08 I received an envelope from the Attorney General's office which was legal mail. Inside was an answer or rather an response from the Attorney General asking the Northern District of California for an extension of time and the Northern District granting a 30 day extention. There were three separate parts enclosed in the envelope. One was the Application For Enlargement Of Time To File Answer. Second was Declaration Of Counsel In Support Of Application For Enlargement Of Time To File Answer. Third was the Order.

On the Declaration Of Counsel In Support Of Application For Enlargement Of Time To File Answer on the first page and last paragraph it says "In 2004, petitioner was convicted in Solano County of fifteen counts of various child molestation upon multiple victims. He was sentenced to 18 years and four months in prison. He has unsuccessfully pursued state direct and collateral review."

I was never detained, arrested, or sentenced to any kind of child molestation in 2004 upon any child. In fact I was never detained, arrested, or sentenced in any county on planet earth ever of child molestation.

I was arrested in Alameda County in Oakland, CA on December 26, 2002 and sentenced to 19 years on —



Statement of Claim :

Continued pg. 2

April 2, 2004 for Second Degree Attempted Robbery.

This false accusation and conviction is causing me an undue amount of pain and suffering, emotional stress because the Attorney General now has every convict believing that I'm a child molester. For the Attorney General to be the head state lawyer of California and a Professional business person he should know better than to Defame a Persons Character, or Slander a persons name which is Libel. It's all DEFAMATION OF CHARACTER

Also Prosecutors misstatement of evidence is a Due Process Violation.

I'm asking that I be issued another Declaration Of Counsel In Support Of Application For Enlargement Of Time To File Answer minus the False Child Molestation accusations which is the last paragraph on first page plus damages in the amount of \$50,000.00 from the Attorney General's Office.

This is not just harmless error because the Attorney General is saying I was detained,-

Statement of Claim:

Continued pg. 3

arrested, and sentenced to a totally different crime than what I am actually in prison for. Plus he said I was sentenced to 18 years and 4 months when in fact I was sentenced to 19 years.

Child Molesters are not liked in prison or on the outside of prison in normal society and the Attorney General has planted a seed that will only grow. There has been documented evidence of people being falsely accused and murdered.

Anthony Sabshaw Pope  
Dated : 5-20-08

## CASE LAW :

Page 1

- ① *Shively v. Bozanich*, supra, 31 Cal. 4<sup>th</sup> 1230, 1238, alleged that she had been defamed by being described as a "felony probationer" in the book A Problem Of Evidence. Published by Deputy District Attorney Peter Bozanich who told author Joseph Bosco that Jill Shively was a "felony probationer", adding that the district attorneys office had "checked it out." Joseph Bosco and William Morrow and Company published the book in December 1996.
- ② *Khawar v. Globe Intern., Inc.*, (Cal, 1998) 79 Cal. Rptr. 2d 178, 19 Cal. 4<sup>th</sup> 1073A. Claimant was accused of assassinating presidential candidate, Senator Robert F. Kennedy, in a newspaper article when facts show Sirhan Sirhan assassinated the Senator and the claimant who was a photojournalist wasnt even a suspect in the governments investigation. The jury found negligence and actual malice which in turn supports the award of compensatory and punitive damages.
- ③ *Robledo - Vela v. U.S.* 45 Fed. appx 567 (2002)  
Prosecutors misstatement of evidence wasnt harmless error.
- ④ *Smith v. Wade*, 103 S.Ct., 1625, 461 U.S. 30 (U.S. Mo. 1983)  
Could be held liable for Punitive damages upon a finding of reckless or careless disregard or indifference to convicts rights or safety.
- ⑤ "*Harte - Hanks Communications v. Connaughton*, supra, 491 U.S. 657, 688 109 S.Ct. 2678, 105 L. Ed. 2d 562  
Had a high degree of awareness of... Probable falsity and failed to adhere to Professional standards, which prooves Malice.
- ⑥ *CF. Tocker v. Great A & P Tea Co.* (D.C. App. 1963) 190 A. 2d 822, 824.  
The slander heard by one person is no less a slander than that heard by a multitude.



IV. Relief

Your complaint cannot go forward unless you request specific relief. State briefly exactly what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

I'm asking that I be sent another Declaration Of Counsel In  
Support Of Application For Enlargement Of Time To File Answer  
minus the False Child Molestation accusations. Also Damages  
in the amount of \$50,000.00

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 20<sup>th</sup> day of May, 2008

Anthony L. Pope  
(Plaintiff's signature)

## EXHIBIT COVER PAGE:

Exhibit: A

Description of this exhibit:  
Application For Enlargement of Time  
To File Answer

Number of pages of this exhibit: 3 pages

JURISDICTION: (Check only one)

☐ Municipal Court

☐ Superior Court

☐ Appellate Court

☐ State Supreme Court

☒ United States District Court

☐ United States Circuit Court

☐ United States Supreme Court

☐ California Department of Corrections, 602 Exhibit.

1 EDMUND G. BROWN JR.  
Attorney General  
2 DANE R. GILLETTE  
Chief Assistant Attorney General  
3 GERALD A. ENGLER  
Senior Assistant Attorney General  
4 PEGGY S. RUFFRA  
Supervising Deputy Attorney General  
5 GREGORY A. OTT  
Deputy Attorney General  
6 State Bar No. 160803  
455 Golden Gate Avenue, Suite 11000  
7 San Francisco, CA 94102  
Telephone: (415) 703-5964  
8 Fax: (415) 703-1234  
E-mail: gregory.ott@doj.ca.gov  
9 Attorneys for Respondent

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12

13 ANTHONY L. POPE,

Petitioner,

15 v.

16 D.K. SISTO, Warden,

17 Respondent.  
18

C 07-0434 CRB (PR)

**APPLICATION FOR  
ENLARGEMENT OF TIME TO  
FILE ANSWER**

19  
20 For the reasons stated in the accompanying declaration of counsel, respondent hereby  
21 requests a thirty-day enlargement of time in which to file its answer or other pleading responsive to  
22 the petition for writ of habeas corpus. As explained in the accompanying declaration, counsel has  
23 not yet received the entire record of petitioner's state proceedings. Counsel cannot determine  
24 whether the petition is timely or exhausted, and cannot yet address petitioner's claim on the merits,  
25 even assuming timeliness and exhaustion.

26 Counsel has not contacted petitioner regarding this request, as he is in custody and not  
27 represented by counsel.  
28

1 WHEREFORE, respondent respectfully requests that this Court grant an enlargement of  
2 time, to and including March 12, 2008, in which to file his answer.

3 Dated: February 14, 2008

4 Respectfully submitted,

5 EDMUND G. BROWN JR.  
6 Attorney General  
7 DANE R. GILLETTE  
8 Chief Assistant Attorney General  
9 GERALD A. ENGLER  
10 Senior Assistant Attorney General  
11 PEGGY S. RUFFRA  
12 Supervising Deputy Attorney General

13 /s/ Gregory A. Ott  
14 GREGORY A. OTT  
15 Deputy Attorney General

16 Attorneys for Respondent

17 GAO  
18 40218727.wpd  
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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **Pope v. Sisto, Warden**

No.: **C 07-0434 CRB (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

On February 15, 2008, I served the attached

**APPLICATION FOR ENLARGEMENT OF TIME TO FILE ANSWER**

**DECLARATION OF COUNSEL IN SUPPORT OF APPLICATION FOR  
ENLARGEMENT OF TIME TO FILE ANSWER**

**ORDER**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Francisco, California, addressed as follows:

Anthony LaShawn Pope  
CDC No. J-18522  
CSP-Solano  
P.O. Box 4000  
Vacaville, CA 95696-4000

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 15, 2008, at San Francisco, California.

S. Agustin  
Declarant

/s/ S. Agustin  
Signature

## EXHIBIT COVER PAGE:

Exhibit: B

**Description of this exhibit:**

Declaration of Counsel in Support of  
Application For Enlargement of  
Time To File Answer

Number of pages of this exhibit: 2 pages

**JURISDICTION: (Check only one)**

- ☐ Municipal Court
- ☐ Superior Court
- ☐ Appellate Court
- ☐ State Supreme Court
- ☒ United States District Court
- ☐ United States Circuit Court
- ☐ United States Supreme Court
- ☐ California Department of Corrections, 602 Exhibit.

1 EDMUND G. BROWN JR.  
Attorney General  
2 DANE R. GILLETTE  
Chief Assistant Attorney General  
3 GERALD A. ENGLER  
Senior Assistant Attorney General  
4 PEGGY S. RUFFRA  
Supervising Deputy Attorney General  
5 GREGORY A. OTT  
Deputy Attorney General  
6 State Bar No. 160803  
455 Golden Gate Avenue, Suite 11000  
7 San Francisco, CA 94102  
Telephone: (415) 703-5964  
8 Fax: (415) 703-1234  
E-mail: gregory.ott@doj.ca.gov  
9 Attorneys for Respondent

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12

13 ANTHONY L. POPE,  
14

Petitioner,

15 v.  
16

17 D.K. SISTO, Warden,  
18

Respondent.  
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C 07-0434 CRB (PR)

**DECLARATION OF COUNSEL IN  
SUPPORT OF APPLICATION FOR  
ENLARGEMENT OF TIME TO  
FILE ANSWER**

20 I, GREGORY A. OTT, declare under penalty of perjury as follows:

21 I am the California Deputy Attorney General assigned to represent respondent in this case.  
22 Respondent's answer was due on February 11, 2008, per this Court's December 14, 2007, Order To  
23 Show Cause. I recognize that the instant application is three days beyond its due date, and apologize  
24 to the Court and petitioner for an inconvenience caused.

25 I have not previously requested an enlargement of time in this case.

26 In 2004, petitioner was convicted in Solano County of fifteen counts of various child  
27 molestation upon multiple victims. He was sentenced to eighteen years and four months in prison.  
28 He has unsuccessfully pursued state direct and collateral review.



1 I request an additional thirty days to file my answer for the following reasons. I have not  
2 yet received the bulk of the record of petitioner's state conviction and post-conviction proceedings.  
3 Because petitioner did not directly appeal from his judgment, no "record on appeal" was generated  
4 in state court; this office previously had no record at all of petitioner's conviction. Since receiving  
5 this Court's Order to Show Cause, I have begun recreating the record, albeit small—petitioner's  
6 judgment is based on a plea—of petitioner's judgment. I have received some, but not all, of the  
7 record of petitioner's conviction from the Alameda County Superior Court. I am also still receiving  
8 the record of petitioner's numerous state collateral review petitions and orders. At this point, I  
9 cannot determine whether the petition is exhausted or timely. Even assuming timeliness and  
10 exhaustion, I cannot address petitioner's numerous claims on the merits until I receive the balance  
11 of the state record. I anticipate receiving the balance of my requested materials by the end of next  
12 week. Should I receive the materials in that time frame, I do not anticipate needing additional time  
13 to respond to the answer.

14 I have not contacted petitioner regarding this request, as he is in custody and not  
15 represented by counsel.

16 Accordingly, I request that the Court grant respondent to and including March 12, 2008,  
17 in which to file its answer or other response to the petition.

18 I declare under penalty of perjury of the laws of the State of California and the United  
19 States of America that the foregoing is true and correct. Executed at San Francisco, California on  
20 February 14, 2008.

21  
22  
23 /s/ Gregory A. Ott  
24 GREGORY A. OTT  
25 Deputy Attorney General  
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## EXHIBIT COVER PAGE:

Exhibit: C

Description of this exhibit:

Order

Number of pages of this exhibit: 1 pages

JURISDICTION: (Check only one)

☐ Municipal Court

☐ Superior Court

☐ Appellate Court

☐ State Supreme Court

☒ United States District Court

☐ United States Circuit Court

☐ United States Supreme Court

☐ California Department of Corrections, 602 Exhibit

☐ Other: \_\_\_\_\_



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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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12 ANTHONY L. POPE,

13 Petitioner,

14 v.

15 D.K. SISTO, Warden,

16 Respondent.  
17

C 07-0434 CRB (PR)

**ORDER**

18 GOOD CAUSE APPEARING, it is hereby ordered that Respondent may have until March  
19 12, 2008, to file his answer to the petition for writ of habeas corpus. If Petitioner wishes to respond  
20 to the answer, he shall do so by filing a traverse with the Court and serving it on Respondent within  
21 thirty days of service of the answer.

22 Respondent may file a motion to dismiss on procedural grounds in lieu of an answer. If  
23 Respondent files such a motion, Petitioner shall file with the court and serve on Respondent an  
24 opposition or statement of nonopposition within thirty days of receipt of the motion, and Respondent  
25 shall file with the court and serve on Petitioner a reply within fifteen days of receipt of any  
26 opposition.

27 DATED: \_\_\_\_\_, 2008.  
28

\_\_\_\_\_  
CHARLES R. BREYER  
United States District Judge



## EXHIBIT COVER PAGE:

Exhibit: D

Description of this exhibit:

Arraignment cases (Current & Priors)

Number of pages of this exhibit: 5 pages

JURISDICTION: (Check only one)

☐ Municipal Court

☐ Superior Court

☐ Appellate Court

☐ State Supreme Court

☒ United States District Court

☐ United States Circuit Court

☐ United States Supreme Court

☐ California Department of Corrections, 602 Exhibit.

☐ Other: \_\_\_\_\_



Dept. No. 112  
12/30/02 I/C

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA,  
WILEY W. MANUEL COURTHOUSE

PEOPLE OF THE STATE OF CALIFORNIA

NO.  
COMPLAINT

483038

DEC 30 2002

v.

ANTHONY POPE

PFN: AOS576

CEN: 28041

Defina Wade

Defendant(s).

The Undersigned, being sworn says, on Information and belief, that ANTHONY POPE did, in the County of Alameda, State of California, on or about December 26, 2002, commit a Felony, to wit: ATTEMPTED SECOND DEGREE ROBBERY, a violation of section 211 of the PENAL CODE of California, in that said defendant(s) did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of ADRIANA LOPEZ.

"NOTICE: The above offense is a serious felony within the meaning of Penal Code Section 1192.7(c)."

"NOTICE: Conviction of this offense will require you to provide specimens and samples pursuant to Penal Code section 296. Willful refusal to provide the specimens and samples is a crime."

**FIRST PRIOR CONVICTION AS TO DEFENDANT POPE**

The undersigned further alleges that before the commission of the offense specified above, said defendant ANTHONY POPE, on or about August 16, 1994, was convicted in the Superior Court of the State of California, in and for the County of CONTRA COSTA, of the crime of a Felony, to wit: SECOND DEGREE ROBBERY, a violation of section 211 of the PENAL CODE of California, and received a prison term therefor.

**3 STRIKES (TWO PRIORS)**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code sections 1170.12(c)(2)(A) and 667(e)(2)(A).

**CAL PRIOR-SERIOUS FELONY**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code section 667(a)(1).

**SECOND PRIOR CONVICTION AS TO DEFENDANT POPE**

The undersigned further alleges that before the commission of the offense specified above, said defendant ANTHONY POPE, on or about April 20, 1994, was convicted in the Superior Court of the State of California, in and for the County of ALAMEDA, of the crime of a Felony, to wit: SECOND DEGREE ROBBERY, a violation of section 211 of the PENAL CODE of California, and received a prison term therefor.

**3 STRIKES (TWO PRIORS)**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code sections 1170.12(c)(2)(A) and 667(e)(2)(A).

**CAL PRIOR-SERIOUS FELONY**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code section 667(a)(1).

**THIRD PRIOR CONVICTION AS TO DEFENDANT POPE**

The undersigned further alleges that before the commission of the offense specified above, said defendant ANTHONY POPE, on or about April 20, 1994, was convicted in the Superior Court of the State of California, in and for the County of ALAMEDA, of the crime of a Felony, to wit: SECOND DEGREE ROBBERY, a violation of section 211 of the PENAL CODE of California, and received a prison term therefor.

**3 STRIKES (TWO PRIORS)**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code sections 1170.12(c)(2)(A) and 667(e)(2)(A).

**CAL PRIOR-SERIOUS FELONY**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code section 667(a)(1).

**FOURTH PRIOR CONVICTION AS TO DEFENDANT POPE**

The undersigned further alleges that before the commission of the offense specified above, said defendant ANTHONY POPE, on or about September 1, 1987, was convicted in the Superior Court of the State of California, in and for the County of ALAMEDA, of the crime of a Felony, to wit: FIRST DEGREE RESIDENTIAL BURGLARY, a violation of section 459 of the PENAL CODE of California, and received a prison term therefor.

**3 STRIKES (TWO PRIORS)**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code sections 1170.12(c)(2)(A) and 667(e)(2)(A).

**CAL PRIOR-SERIOUS FELONY**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code section 667(a)(1).

**FIFTH PRIOR CONVICTION AS TO DEFENDANT POPE**

The undersigned further alleges that before the commission of the offense specified above, said defendant ANTHONY POPE, on or about September 1, 1987, was convicted in the Superior Court of the State of California, in and for the County of ALAMEDA, of the crime of a Felony, to wit: FIRST DEGREE RESIDENTIAL BURGLARY, a violation of section 459 of the PENAL CODE of California, and received a prison term therefor.

**3 STRIKES (TWO PRIORS)**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code sections 1170.12(c)(2)(A) and 667(e)(2)(A).

**CAL PRIOR-SERIOUS FELONY**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code section 667(a)(1).

**SIXTH PRIOR CONVICTION AS TO DEFENDANT POPE**

The undersigned further alleges that before the commission of the offense specified above, said defendant ANTHONY POPE, on or about September 1, 1987, was convicted in the Superior Court of the State of California, in and for the County of ALAMEDA, of the crime of a Felony, to wit: FIRST DEGREE RESIDENTIAL BURGLARY, a violation of section 459 of the PENAL CODE of California, and received a prison term therefor.

**3 STRIKES (TWO PRIORS)**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code sections 1170.12(c)(2)(A) and 667(e)(2)(A).

**CAL PRIOR-SERIOUS FELONY**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code section 667(a)(1).

**SEVENTH PRIOR CONVICTION AS TO DEFENDANT POPE**

The undersigned further alleges that before the commission of the offense specified above, said defendant ANTHONY POPE, on or about September 1, 1987, was convicted in the Superior Court of the State of California, in and for the County of ALAMEDA, of the crime of a Felony, to wit: FIRST DEGREE RESIDENTIAL BURGLARY, a violation of section 459 of the PENAL CODE of California, and received a prison term therefor.

**3 STRIKES (TWO PRIORS)**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code sections 1170.12(c)(2)(A) and 667(e)(2)(A).

**CAL PRIOR-SERIOUS FELONY**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code section 667(a)(1).

**EIGHTH PRIOR CONVICTION AS TO DEFENDANT POPE**

The undersigned further alleges that before the commission of the offense specified above, said defendant ANTHONY POPE, on or about April 3, 1990, was convicted in the Superior Court of the State of California, in and for the County of CONTRA COSTA, of the crime of a Felony, to wit: FIRST DEGREE RESIDENTIAL BURGLARY, a violation of section 459 of the PENAL CODE of California, and received a sentence of probation therefor.

**3 STRIKES (TWO PRIORS)**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code sections 1170.12(c)(2)(A) and 667(e)(2)(A).

**CAL PRIOR-SERIOUS FELONY**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code section 667(a)(1).

**NINTH PRIOR CONVICTION AS TO DEFENDANT POPE**

The undersigned further alleges that before the commission of the offense specified above, said defendant ANTHONY POPE, on or about September 14, 1994, was convicted in the Superior Court of the State of California, in and for the County of LASSEN, of the crime of a Felony, to wit: SECOND DEGREE ROBBERY, a violation of section 211 of the PENAL CODE of California, and received a prison term therefor.

**CAL PRIOR-SERIOUS FELONY**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code section 667(a)(1).

**3 STRIKES (TWO PRIORS)**

It is further alleged as to count one that the above prior conviction is within the purview of Penal Code sections 1170.12(c)(2)(A) and 667(e)(2)(A).

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by Penal Code Section 1054.3.

Complainant therefore prays that a warrant issue and that said defendant(s) be dealt with according to law.

Subscribed and sworn to before me,  
Monday, December 30, 2002

Sgt. E. Tressy  
/s/ Oakland PD-02-120533

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